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INDIA'S NEGOTIATIONS CONCERNING THE DABHOL POWER COMPANY 2001-2005[1]

Danielle Cadieux prepared this case under the supervision of Professor David Conklin solely to provide material for class discussion. The authors do not intend to illustrate either effective or ineffective handling of a managerial situation. The authors may have disguised certain names and other identifying information to protect confidentiality.

In 2001, the Dabhol Power Company (DPC) ceased operations following several years of bitter acrimony between the state of Maharashtra and the foreign owners. GE and Bechtel each owned 10 per cent of the equity, the Maharashtra State Energy Board (MSEB) owned 15 per cent and Enron owned 65 per cent. The Overseas Private Insurance Corporation (OPIC),[2] a U.S. government agency, had lent $138 million[3] and also had provided insurance against "political risk" for some of the other 19 foreign lenders.

Enron had offered to sell its equity for $1.2 billion. Together with full payment of the offshore lenders debt of $1.1 billion the total offer was $2.3 billion. This offer was much less than what Enron saw as its legal claim of $4-5 billion. However, the government of India and the Maharashtra State Energy Board were not prepared to pay a price that would include all the costs that had been incurred.

The price to be paid by the government of India for DPC would impact the tariff rate and the future profitability of the DPC. The original purchase agreement in regard to electricity generated by DPC had been Rs7-8 (over US$0.15) per kilowatt hour, rising in certain circumstances to as much as Rs25 (over US$0.50). In 2001, the MSEB felt that an acceptable tariff would be only Rs2.3 (about US$0.05), and this would require a much lower purchase price for DPC. The financial offers were far apart, and it seemed there was no possible solution.

On December 2, 2001 Enron declared bankruptcy. In the bankruptcy, GE and Bechtel purchased Enron's 65 per cent interest for only $20 million. They had each paid nearly $100 million for their original 10 per

[1] This case has been written on the basis of published sources only. Consequently, the interpretations and perspectives presented in this case are not necessarily those of Enron or the Dabhol Power Company, or any of its employees. This case provides an update to "Enron and the Dabhol Power Company," by Andrew Inkpen, Thunderbird University Case #A07020008.
[2] OPIC's mission is twofold. OPIC assists U.S. corporations in their investments in emerging markets, thereby stimulating U.S. jobs and corporate profits. In this process, OPIC assists in the economic development of low-income countries, particularly those that are politically important to U.S. foreign policy.
[3] All funds in U.S. dollars unless specified otherwise.

cent equity in DPC. Meanwhile, the various debtors were pursuing legal action against the government of India and MSEB. Bechtel also sued the MSEB in 2005, and a U.S. court authorized Bechtel to seize the 15 per cent equity held by MSEB.

Over the 1999-2005 period, potential foreign investors in India pointed to the DPC debacle as an indication of the unacceptable level of political risk in India. "The trouble with India's investment climate," Christina Rocca, U.S. assistant secretary of state said in a July 2001 speech in New Delhi, "was to be summed up in a five-letter word: Enron."[4] In March 2005, an article in the *Wall Street Journal* claimed that, "Many businessmen and diplomats say that settling the debts of the $2.9 billion Dabhol project — India's largest-ever foreign investment — is a prerequisite for future financing of other big-ticket infrastructure ventures in India."[5]

India's 2004 elections resulted in a new Prime Minister, Manmohan Singh, and a new ruling coalition led by the Congress Party. As the new prime minister, Singh wished to negotiate trade agreements with Washington, and he wanted to gain Washington's support for India's nuclear program. However, President Bush supported the positions of the U.S. corporations and OPIC, and so was reluctant to co-operate politically. From this perspective, Singh needed a negotiated agreement prior to his U.S. visit, which had been scheduled for July 18, 2005.

A quite separate political pressure had developed as a result of substantial power shortages in Maharashtra. In the spring of 2005, mid-sized towns experienced daily power cuts of up to four hours, and rural areas suffered as much as nine hours without power. Furthermore, brownouts had become common. At one point, angry mobs stoned the offices of the MSEB, while terrified officials locked themselves inside. A negotiated deal on DPC would alleviate these embarrassing political pressures since Phase 1 of DPC could be reactivated immediately, and Phase 2 was very close to completion.

To coordinate negotiations with the various shareholders and creditors, Singh created a cabinet committee, headed by Defense Minister Pranab Mukherjee and with a team of negotiators drawn from the civil service. The finance minister had to recluse himself because he had once been the lawyer for DPC, and considerable conflict developed within the negotiating team concerning an appropriate "deal." Ultimately, Mukherjee met with U.S. Vice-President Dick Cheney to seek his assistance in the negotiations, and Cheney did play a key role in convincing Bechtel and OPIC to reduce their demands.

In the days prior to July 18, the government of India was able to negotiate a reduction of 20 per cent in the face value of DPC's bank loans, and it was able to purchase GE's equity for $145 million and Bechtel's equity for $160 million. The total payment was $760 million. Rather than paying this out of its fiscal budget, the government convinced Indian financial institutions to provide this capital. As a result of these negotiations, Prime Minister Singh was able to meet President Bush in an atmosphere of cooperation. Singh hoped that he had reduced the foreign perception of India's political risk, and that there would be a rapid increase in FDI.

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[4] *Andy Mukherjee, "India Pays Hefty Price to Regain US Investor's Trust," India Resource Center, www.indiaresource.org/news/2005/1089.html accessed March 15, 2006.*

[5] *John Larkin and Jay Solomon, "India's Dabhol Rescue Plan Could Stir Foreign Investor Interest," Wall Street Journal, Mar 22, 2005, p.A.13.*